

**REMARKS**

Applicants hereby affirm the election of claims 2-4 made in response to the prior restriction requirement. Claims 2-4 are prosecuted and claims 1, 5 and 6 have been cancelled with the right reserved to file a divisional application thereon.

By this Amendment, claim 2 has been cancelled without prejudice or disclaimer, and the contents of claim 2 have been incorporated into claims 3 and 4, respectively, to better define the present invention. Thus, claims 3 and 4 are now pending in the present application.

A Submission of Drawings to identify Figures 8 as "prior art" is attached.

The claims have been amended in order to remove the rejection under 35 U.S.C. § 112, 2<sup>nd</sup> paragraph, and to clarify the present invention. In claim 2, the Examiner suggests to correct the term "an rpm" to --a rpm--. However, it is submitted that "an rpm" is correct English.

Reconsideration and removal of the rejections of claims 2-4 under 35 U.S.C. § 103(a) as obvious in view of Sawa (U.S. Patent No. 6,024,671) are respectfully requested on the basis of the present amendment to the claims and the following remarks.

Sawa is intended to provide an apparatus for controlling an automatic transmission which detects failures in solenoid valves disposed in a hydraulic pressure control circuit and carries out a fail-safe control so as to reduce shocks generated by the failures. The Sawa apparatus includes a hydraulic pressure control circuit having a first solenoid valve for controlling the hydraulic pressure supplied into an engaging hydraulic chamber of a first frictional element and a second solenoid valve for controlling the hydraulic pressure supplied into both a disengaging hydraulic

chamber of the first frictional element and the hydraulic chamber of the second frictional element, and a failure detection means for detecting a failure of the first solenoid valve, where the hydraulic pressure supplied into both the disengaging hydraulic chamber of the first frictional element and the hydraulic chamber of the second frictional element is increased in a case where the failure detection means has detected a failure when the first gear stage is changed to the second gear stage.

While the Examiner alleges that Sawa teaches a counter for counting the non-change in the learn value for determining the converging status, such is not so. The gear normality timer TGs as taught by Sawa is merely an indicator that shows the normal gear ratio has continued for the predetermined time period. On the other hand, the learned value non-change counter according to the present invention is used for determining whether the learned value is converged or not. Sawa does not teach or suggest a learned value change supervision controlling means that supervises a change in the learned value of the learn controlling means. For example, at page 11, lines 7-13, the present specification describes:

...The learned value (hydraulic pressure) obtained through this learning control is converged to absorb the variation at the time of mass-manufacturing when learning is performed in the condition in which the learning control has not been effected yet. That is, by supervising the learned value, which represents the variation of the internal rotary constituents, it is possible to know the condition of the internal rotary constituents....

The gear normality timer TGs as taught by Sawa is quite distinct from the non-change counter of the present claimed invention, because the Sawa timer is not intended to be used for

the learned value change supervision controlling means, which supervises the learned value representing the variation of the internal rotary constituents.

The Examiner acknowledges that Sawa does not explicitly teach determining abnormality when the learn value changes again after the converged status is determined. The Examiner, however, contends that since Sawa teaches determining abnormality when the gear ratio is between a predetermined range, Sawa obviously includes teaching determining abnormality status of the vehicle when the vehicle has previously been judged as normal then later the failure is detected.

Contrary to the Examiner's statement, while Sawa teaches that the gear ratio is determined to be abnormal when the gear ratio GR is smaller than the predetermined gear ratio KG1 and that the speed gear failure is detected in a case where the abnormal gear ratio continues for a predetermined period of time, nowhere in the Sawa patent is there taught or suggested an "abnormality detection controlling means for storing that the condition is abnormal when the learned value is changed again after the judgement that the learned value change has been once converged by said learned value change supervision controlling means," as called for in claims 3 and 4 as now amended. To this end, it is possible according to the present invention to detect and store an abnormal condition before a complete breakdown of the automatic speed changer. On the other hand, in Sawa, the failure detection means cannot detect the abnormality status until the automatic speed changer has already reached the breakdown condition. Thus, it is respectfully submitted that claims 3 and 4 are not obvious in view of Sawa.

AMENDMENT UNDER 37 C.F.R. § 1.111  
Appln. No.: 09/964,698

Attorney Docket No.: Q66224

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

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